

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, NOVEMBER 3, 2004**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of November 3, 2004, was called to order by Mayor Hansen at 5:11 p.m.

Present: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – Beckman

Also Present: Interim City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Conference with Labor Negotiators, Human Resources Director Joanne Narloch and Rick Bolanos, regarding Police Officers Association of Lodi and Lodi Police Dispatchers Association pursuant to Government Code §54957.6
- b) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- c) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- d) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- e) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- f) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- g) Actual litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM
- h) Actual litigation: Government Code §54956.9(a); one case; Lehman Brothers Inc., v. City of Lodi and Lodi Financing Corporation, United States District Court, Eastern District of California Case No. CIV-S-04-0850 FCD/JFM
- i) Actual litigation: Government Code §54956.9(a); one case; Fireman's Fund Insurance Company v. City of Lodi, et al., United States District Court, Eastern District of California Case No. CIV-S-98-1489 FCD JFM
- j) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi v. City of Stockton, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024720
- k) Actual Litigation: Government Code §54956.9(a); one case; City of Stockton v. City of Lodi, San Joaquin County Superior Court, Stockton Branch, Case No. CV024859
- l) Actual Litigation: Government Code §54956.9(a); one case; Stockton Family Farmers Coalition v. City of Lodi, et al., San Joaquin County Superior Court, Stockton Branch, Case No. CV024860

**C-3     ADJOURN TO CLOSED SESSION**

At 5:11 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:05 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:08 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions:

In regard to Item C-2 (a), on a vote of 3-1 with Council Member Hitchcock dissenting, Council gave direction to its labor negotiators.

In regard to Items C-2 (b), (d), (e), (f), (g), (h), and (i), no reportable action was taken.

In regard to Item C-2 (c), (j), (k), and (l), settlement direction was sought and obtained.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of November 3, 2004, was called to order by Mayor Hansen at 7:08 p.m.

Present: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – Beckman

Also Present: Interim City Manager Keeter, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Steve Newman, First Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hansen presented a proclamation to Captain Frank Severs with the Lodi Salvation Army proclaiming Thursday, November 18, 2004, as "Feed Lodi Thursday," to be held in conjunction with the "Feed America Thursday" program.

D-3 (a) Tiffani Fink, Transportation Manager, gave a presentation to the City Council regarding transit services for the Holiday season.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Howard second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

E-1 Claims were approved in the amount of \$3,764,748.80.

E-2 The minutes of October 12, 2004 (Shirtsleeve Session), October 12, 2004 (Special Meeting), October 19, 2004 (Shirtsleeve Session), October 19, 2004 (Special Meeting), October 26, 2004 (Shirtsleeve Session), and October 26, 2004 (Special Meeting) were approved as written.

E-3 Adopted Resolution No. 2004-226 approving the City of Lodi annual investment policy and internal control guidelines.

E-4 Adopted Resolution No. 2004-227 approving the specifications, authorizing advertisement for bids for Maintenance of Landscape Areas for 2005, and authorizing the City Manager to award or reject the contracts up to \$150,000.

- E-5 Adopted Resolution No. 2004-228 awarding the purchase of 20,000 feet of #1/0 and 40,000 feet of #350 kcmil 600-volt underground triplex to the low bidder, Pirelli Power Cables and Systems, of Lexington, SC, in the amount of \$92,263.96.
- E-6 Adopted Resolution No. 2004-229 awarding the purchase of 40,000 feet of #1/0 medium-voltage EPR-insulated underground conductor to the low bidder, The Okonite Company, of San Ramon, CA, in the amount of \$57,064.40.
- E-7 Adopted Resolution No. 2004-230 awarding the purchase of 288 watt-hour meters to the low bidder, Sensus Metering Systems, of Raleigh, NC, in the amount of \$8,921.70.
- E-8 Adopted Resolution No. 2004-231 awarding the design and construction contract for the Municipal Service Center Public Works Locker Room Expansion Project to Diede Construction and appropriated funds in the amount of \$155,000.
- E-9 Adopted Resolution No. 2004-232 approving the final map and Improvement Agreement for Mills Avenue Single-Family Homes, Tract No. 3441, and directed the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City.
- E-10 Adopted Resolution No. 2004-233 authorizing the following actions for the Century Meadows One, Unit No. 3, subdivision:
1. Approving the final map and improvement agreement for Century Meadows One, Unit No. 3, Tract No. 3289, and directing the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City;
  2. Approving the no-parking zone installation on the north side of Harney Lane from Poppy Drive to 800 feet east of Poppy Drive; and
  3. Appropriating funds in the amount of \$22,000 for applicable reimbursements.
- E-11 Adopted Resolution of Vacation No. 2004-234 of a surplus portion of Woodhaven Lane at 1245 Woodhaven Lane frontage.
- E-12 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Robert E. Lamb, Inc., of Valley Forge, PA, for architectural/engineering services for the Operations Center and appropriate funds in an amount not to exceed \$24,000 by a transfer from the Distribution System Improvement business unit to the business unit" was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***
- E-13 Adopted Resolution No. 2004-235 authorizing the City Manager to enter into a professional services agreement with Power Engineers, Inc., of Hailey, ID, for performing the "Arc Flash Study" at Henning, Industrial, Killelea, and McLane Substations in the amount of \$11,330.
- E-14 Set public hearing for November 17, 2004, to consider a development agreement between the City of Lodi and GFLIP III, L.P., relating to the development known as Electronic Display Sign to be located at 1251 South Beckman Road, Lodi.

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ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-12 "Adopt resolution authorizing the City Manager to execute a professional services agreement with Robert E. Lamb, Inc., of Valley Forge, PA, for architectural/engineering services for the Operations Center and appropriate funds in an amount not to exceed \$24,000 by a transfer from the Distribution System Improvement business unit to the business unit"

Hans Hansen, Manager of Engineering and Operations, reported that an ergonomic study was conducted in December 2003 in response to submittal of neck and back injury claims by some Electric Utility employees.

Interim City Manager Keeter stated that the cost of the modifications would come back to Council for final approval.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, adopted Resolution No. 2004-236 authorizing the City Manager to execute a professional services agreement with Robert E. Lamb, Inc., of Valley Forge, PA, for architectural/engineering services for the Operations Center and appropriating funds in an amount not to exceed \$24,000 by a transfer from the Distribution System Improvement business unit to the business unit. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Tyler Rothermel distributed written material to Council (filed). He spoke in support of allowing BMX bikes at the Kofu Skate Park. He stated that the “skate light” material on the ramps was endorsed for BMX bikes and some of the ramps are actually too large for skate boards. He noted that the city of Oroville allows bikes, skateboards, and roller blades at its skate park. He asked that Council place this matter on its next agenda.

Interim City Manager Keeter reported that staff had considered allowing BMX bikes in the skate park; however, it chose to reopen the park with in-line skaters and skate boarders only and to later evaluate the possibility of incorporating BMX bikes.

In reply to Council Member Hitchcock, City Attorney Schwabauer stated that the legislation that provides cities with limited immunity for the operation of skate parks only applies to children over 14 years of age. He noted there does exist a hazardous recreational activity immunity that cities have, which is independent of the limited skate park immunity, and he indicated that he would analyze it.

Council Members Land and Howard expressed support for allowing BMX bikes in the skate park if it does not increase the City's risk.

Mayor Hansen stated that staff would look into the matter and contact Mr. Rothermel.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider adopting Resolution/Order to Vacate a surplus portion of Maxwell Street.

Public Works Director Prima reported that Maxwell Street off of Stockton Street was originally developed as a cul-de-sac and was later extended south. The property owner has requested that the City abandon a piece of the right of way. Mr. Prima confirmed that the City would retain an easement for the utilities.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Land second, adopted Resolution No. 2004-237 vacating a portion of Maxwell Street by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider unmet transit needs in Lodi.

Tiffani Fink, Transportation Manager, noted that the public hearing to consider unmet transit needs is an annual requirement of the Transportation Development Act. Ms. Fink reported that she had not received any comments from other meetings held on this topic. Only one comment (via telephone) has been received thus far asking for late night service. She introduced Sarkes Khachek and Michael Swearingen of the San Joaquin Council of Governments (SJCOG) who oversee the unmet transit needs process countywide.

Mr. Khachek reported that SJCOG staff conducts public outreach to all local social service agencies in the county. In addition, comments can be submitted via internet, mail, or telephone. The comment period began last month and continues to January 27. He stated that no unmet transit needs comments have been received concerning Lodi.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

There was no Council action taken on this matter.

NOTE: Items G-3 and I-1 were discussed and considered simultaneously.

- G-3 Notice thereof having been published according to law, an affidavit of which publication is  
AND on file in the office of the City Clerk, Mayor Hansen called for the public hearing to  
I-1 consider resolution adopting amended Impact Mitigation Fees for Storm Drainage, Streets  
and Road, and Parks and Recreation **AND** "Adopt resolution approving Impact Mitigation  
Fee Program Annual Report for fiscal year 2003-04"

Interim City Manager Keeter suggested that Council consider Items G-3 and I-1 simultaneously.

Public Works Director Prima noted that Council has received a "blue sheet" resolution on this item (filed). He explained that the impact fee program, which began in the early 1990s, has a number of mechanisms to update the fees. Recently the City adopted a mechanism in which the fees are automatically updated annually based on the Engineering Construction Cost Index. The program also contemplates that there be additional adjustments based on other major events. Mr. Prima reported that the price of land has increased considerably over what is in the fee program. This primarily affects storm drainage because of the provision for storm drain basins and parks, which are large, land-intensive areas. Mr. Prima suggested that a targeted update be done based on that element alone. He explained that a major overhaul of the fee program would be a significant effort and he preferred that it be done in conjunction with the General Plan update.

In reference to Item I-1, Wally Sandelin, City Engineer, explained that the fund balance on Exhibit A (filed) of the staff report entitled, "Impact Mitigation Fee Program Fiscal Year 2003-04 Annual Report," refers to cash and also includes loans to other funds. He noted that investment revenues are the interest earned from bank accounts. Service charges are the fees paid by developers into the funds. Total capital expenditures for 2003-04 was \$450,000. "Other Sources (Uses)" details transfers between funds to other accounts. The fee amount reflects the indexing that occurs annually on January 1. In July, a 12% adjustment to the Streets and Roads fee program was adopted. The adjustment was not reflected in the fee amount lines shown on Exhibit A. There are currently three active loans in the fee program: 1) a loan from the Parks and Recreation Fund to the Streets Fund for construction cost associated with Lower Sacramento Road between Kettleman Lane and Turner Road; 2) a loan from the Water Impact Fee Fund to the Fire Fund for construction of Fire Station 4, and 3) a loan with the San Joaquin County Council of Governments (SJCOG) for work done at the interchange of Kettleman Lane and Highway 99. The repayment of the Fire loan to the Water Fund is based upon the available fund balance at the end of each fiscal year. There are adjustments based upon land costs and adjustments to project costs based on Engineering News Record (ENR) indexing, as well as subtracting expenses if there are any.

In reference to Item G-3, Exhibit G (filed), Mr. Sandelin reported that it lists projects for the Storm Drainage Program. He stated that after researching trends, raw land purchases, and working with the development community, consensus was reached by all that it was appropriate to use the now current land cost of \$200,000 per acre. There are two projects that remain in the fee program that are affected by the purchase cost of land: 1) F-Basin and park – west of Lower Sacramento Road, north of Kettleman Lane, and 2) I-Basin and park – west of Lower Sacramento Road, south of Kettleman Lane. The new project cost (as of June 30, 2004) is nearly \$6.5 million. After applying the methodology to the F- and I-Basin projects, the new project cost in the storm drainage program is \$20.6 million.

In reference to Item I-1, Exhibit A, Mr. Sandelin noted that the Storm Drainage fund balance in the Annual Report is \$1.8 million. The net fees required to build the projects in the program, divided by the expected development, yields a fee of \$16,218 per acre, which is a 32% increase over the current fee (as shown on Attachment 1 for Item G-3).

Council Member Hitchcock asked how staff arrived at \$200,000 an acre, to which Mr. Sandelin replied that the development community provided staff with a list of actual closed sales. The reported average by the development community was \$168,000. Agreement was reached that \$200,000 would be appropriate at this time and that the land cost issue would be revisited on a regular basis in the future.

In response to Council Member Hitchcock, Mr. Prima stated that the fees were adequate given the project costs that were used to make assumptions and the level of development planned for. He reported that Fire Stations 3 and 4 would serve the majority of the west-side area.

Ms. Keeter commented that Fire Station 5 and possibly 6 would be considered in the upcoming General Plan update.

Mr. Sandelin reviewed San Joaquin Partnership's comparison of fees. He stated that even with the adjustments being suggested now, Lodi would probably be below the median.

Mr. Sandelin stated that, in response to some comments from the development community, an additional change was made with respect to Katsakian Park. There was a residual dollar amount of \$988,000 that was transferred into the DeBenedetti Park program. He explained that this was done because, as staff went through the design exercise, it realized that the funds in the fee program were not sufficient to construct the projects conceived thus far. Referencing Item G-3, Attachment 1, he stated that the proposed

amended fee for Parks and Recreation is 17% higher, most of which is attributed to land cost. He stated that no adjustments to reflect land prices were made in the Streets and Roads fee program. It was updated to a June 30 date to reflect two projects staff recommends be added to the Streets and Roads program, i.e. 1) Lower Sacramento Road – Mettler Road to the Harney Curve and 2) a share of State Highway improvements as the City's participation in a Regional Traffic Impact Fee.

Mr. Prima recalled that a few months ago a letter was received from SJCOG requesting that cities adopt a regional transportation fee. The Measure K program includes a goal to have a regional fee program in place. The State Transportation Improvement Program, which has been relied on to fund freeway projects, is nearly non-existent. The Federal portion of the funding is now renewed and SJCOG is going through a process to look at how it is going to allocate those funds. SJCOG is recommending that the major funding source, the Surface Transportation Program, be held back by SJCOG for use on freeways. Mr. Prima noted that in staff's September report to Council it was proposed that Lodi take the lead in its position that the Regional Fee should cover state highways only. Other significant roadways that are needed should be funded through agreements between the County and affected cities. Mr. Prima stated that because of SJCOG's reestablishment of the Policy Committee, staff is now recommending that Lodi *not* adopt the full regional fee; however, staff does believe that the Lower Sacramento Road fee is appropriate. Staff suggests that Council adopt a fee (\$909 per acre) that includes Lower Sacramento Road, down to Mettler Road, just south of Armstrong. Mr. Prima explained that because it is not a new fee, i.e. staff is modifying existing fees, it could be applied to all the projects in progress if the Council chose to do so. He referenced the "blue sheet" resolution for Item G-3 (filed), noting that section 3 discusses implementation. He explained that the way the City collects fees for projects that have a subdivision map, is that there is an approval agreement, which provides that they pay the fees that are in effect at the time they paid them. If fees are not paid before January 1, then the ENR Index adjustment would be added to the previous fees. If there is a completed application, then the City would give them one more year to complete their project and get the fees paid under the current schedule in addition to the ENR index.

City Attorney Schwabauer stated that, in California, vested rights are only acquired on the project approval and actual commencement of construction. The City is well within its rights to apply any increase in fees up to the point that construction has begun. State law only requires that cities exempt projects that have both received the project approval and have begun construction.

#### RECESS

At 8:53 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 9:03 p.m.

#### G. PUBLIC HEARINGS (Continued)

##### G-3 Hearing Opened to the Public (Cont'd.)

- Victor DeMelo, Director of Development, reported that Browman Development Company has been working on the "4-Corners" project for two and a half years and is now within 30 days of going before the Planning Commission. It has invested hundreds of thousands of dollars into the project for the Environmental Impact Report processing, on plans and specifications, time, and overhead. He stated that his company was in agreement with the resolution staff is presenting to Council. He commented that the fee increase would have a devastating blow to the project. He reported that construction costs have increased and design guidelines changed a year ago, which delayed the project over four months. Waiting for the results of Measure R, the citizen's initiative, also delayed the project. A number of leases have already been signed based on the existing fee structure.

City Attorney Schwabauer stated that in order for Browman Development Company to have a vested right, where the City could not constitutionally impose these increased fees, is if it had project approval and had begun construction.

Mr. DeMelo requested that the timeframes as established remain in effect.

- Kevin Sharrar, Executive Director of the Building Industry Association of the Delta, addressed the issue of affordable housing. He reported that in years past 50,000 condominiums were built annually in California. It has decreased to less than 5,000 per year today because builders cannot obtain adequate insurance. It is difficult to find consultants that carry the needed errors and omissions insurance. Apartments have an added challenge because builders have little confidence that they will be able to get through the process, due to resistance from communities. He stated that San Joaquin County has become a bedroom community to the East Bay. Supply cannot keep up due in part to the lack of availability of land and infrastructure. In reference to staff's fee proposal, Mr. Sharrar agreed that Lodi should *not* adopt a Regional Transportation Impact Fee tonight. He believed that the implementation proposal before Council was fair.
- Jeffrey Kirst pointed out that Lodi is different in that it has a growth management plan that starts well before the tentative map stage. The planning and conditional approvals start with the growth management plan that is filed in May, meted out in September, and then confirmed by Council. There were projects that were approved at the growth management session recently and with those a completed development application was filed. He asked for clarification that those projects were included in this discussion.

Mr. Prima recalled that projects "in progress" have dealt with tentative map approval or a building permit. His belief was that it would be the development allocations.

Mr. Kirst stated that almost all of the conditions of approval for a tentative map are included in the growth management approval process. Public Works and the Community Development Department give their approvals as a conditional approval of growth management. Mr. Kirst noted that he was ready to file a tentative map as soon as Council approves growth allocations. He asked for clarification of the meaning of "a completed development application" under section three of the proposed resolution for Item G3. He noted that City staff will not accept a tentative map until the growth allocations are completed.

Mr. Schwabauer agreed that the matter should be further defined in the resolution. He stated that for purposes of vesting considerations it would be the map; however, the Council can set the standard at whatever it wishes.

Council Member Hitchcock pointed out that often times when allocations are made the projects are not built for years.

Mr. Kirst agreed; however, he noted that the proposed resolution has a sunset date of December 31, 2005. Mr. Kirst stated that he had approval from the Planning Commission for growth allocations that must be confirmed by the Council, after which he can file a tentative map. He anticipated that fees would be paid in May and the project would be completed in the summer of 2005.

- Dennis Bennett spoke on the subject of affordable housing, noting that it is virtually impossible to obtain liability insurance. He pointed out that when the supply of any product is so rapidly diminished the price escalates. The limitation of development has encumbered the ability to raise enough money in a timely manner to supply the



infrastructure. He stated that Lodi does not sell enough building permits or collect enough impact fees to ever complete its "wish list" of projects and this would always be the case as long as only 270 homes are built per year. He asserted that the whole equation is flawed and did not believe it could ever be resolved under the present system. Mr. Kirst reported that staff's recommendation has met with the approval of the building industry and he encouraged Council to adopt the resolution.

Public Portion of Hearing Closed

Mr. Schwabauer offered the following amendments to the resolution for Item G-3, in accordance with Mr. Kirst's request:

*Section 3, paragraph 2, b) the project proponent filed a "completed development application" prior to November 3, 2004. **A development application shall be deemed complete for purposes of this resolution upon receipt of its growth management allocation from the Planning Commission.***

*Section 3, paragraph 3, The exemption from the increased fee amounts imposed by this Resolution shall ~~expire on~~ **only apply to the extent that the fees are actually paid by December 31, 2005.***

Council Member Hitchcock suggested that "construction started" by December 31, 2005, would be more appropriate.

Mr. Prima explained that in some processes construction can begin before paying fees. For projects involving a map, the final map normally comes to Council for approval along with an improvement agreement. Improvement agreements specify what work will be done and fees are paid before the improvements are accepted. For typical residential subdivisions, developers have been working for months before they pay the fees.

#G-3 MOTION / VOTE:

The City Council, on motion of Council Member Land, Hansen second, adopted Resolution No. 2004-238 amending Impact Mitigation Fees for Storm Drainage, Streets and Roads, and Parks and Recreation as amended by the City Attorney. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

#I-1 MOTION/ VOTE:

The City Council, on motion of Council Member Land, Hansen second, adopted Resolution No. 2004-239 approving the Impact Mitigation Fee Program Annual Report for fiscal year 2003-04 by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Hansen second, directed the City Clerk to post for the following vacancy and expiring terms by the vote shown below:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

Senior Citizens Commission

Cynthia Winegarden

Term to expire December 31, 2004

Perry Schimke

Term to expire December 31, 2004

Parks and Recreation Commission

Scott Davis

Term to expire December 31, 2004

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-2 “Adopt resolution authorizing the City Manager to execute park purchase and construction agreement with FCB Building Partners I, L.P., for the acquisition of the park site and construction of the park improvements for Century Meadows Park and appropriate funds (\$24,000)”

Wally Sandelin, City Engineer, explained that the matter under consideration is a neighborhood park serving areas bounded by the canal, Lower Sacramento Road, Harney Lane, and Century Boulevard. Housing in the area is mostly being built by FCB Building Partners. On December 18, 2002, Council entered into a park acquisition agreement with the subdivider reserving for future development the three-acre site within the subdivision. The developer has built the park frontage improvements on both sides of the park and the Park Impact Fee Program has reimbursed the developer for those costs. The developer is passing over to the City the basic land costs that were paid for the 2.99 acre park property. The park purchase agreement allows for reasonable costs for taxes at 1%, 5.25% carry on the interest, and four and a half cents per square foot for ongoing maintenance for three years. The total project cost based on the bid project to date is \$1,040,000. The agreement provides for fee credits turned back to the developer to offset those costs for \$1,016,000. The staff report for this item requests a \$24,000 appropriation. The developer has agreed to provide construction administration services to the City for the construction period at no cost and has agreed to maintain the park for seven months. The Parks and Recreation Commission has concurred with the acquisition and construction agreement.

Council Member Hitchcock expressed concern about the price of the land.

Mr. Sandelin replied that the most recent comp was \$316,000 per acre; however, the average over the last couple of years was \$168,000. It was agreed that \$200,000 was mid-range in the marketplace.

MOTION / VOTE:

The City Council, on motion of Mayor Hansen, Howard second, adopted Resolution No. 2004-240 authorizing the City Manager to execute park purchase and construction agreement with FCB Building Partners I, L.P., for the acquisition of the park site and construction of the park improvements for Century Meadows Park and appropriated funds in the amount of \$24,000. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Howard, Land, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – Beckman

- I-3 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and other various cases being handled by outside counsel (\$313,455.17) and approval of Special Allocation covering general litigation matter expenses (\$4,413.66)" was ***pulled from the agenda pursuant to staff's request.***

- I-4 "Discussion and update regarding fiscal year 2005-06 budget process"

Interim City Manager Keeter reported that Department Heads have been asked for ideas on revenue enhancements and expenditure reductions for 2005-06. An in-house survey has been developed as a way to get feedback from City employees. She reminded Council that two years ago Council was presented with five scenarios related to the budget, and during the last budget cycle, there were three phases of reductions.

Mayor Hansen asked if the \$1 million General Plan update was factored into the 2004-05 Financial Plan and Summary, submitted as Exhibit A (filed) to the staff report.

Finance Director Krueger replied that it would require an additional staff member in the Planning Division of Community Development to manage the process. He anticipated that impact mitigation fees would pay for the General Plan update.

Ms. Keeter stated that mid-year budget adjustments would be brought to Council in January. In addition there would be a recommendation to authorize the hiring of a Planner who would prepare a Request for Proposals for a consultant. The Planner would then oversee the General Plan update process.

Council Member Hitchcock asked that Council receive budget spreadsheets in hard copy form for future meetings.

Mr. Krueger reported that as of June 30, 2004 the City had a \$1.3 million structural deficit. He cautioned that it could be \$1.7 million by now. He stated that this was caused by allowing revenues to get out of balance with expenditures. He explained that it is in the structure of the way the City does business, i.e. the level of services it provides, programs it offers, and what is received in reimbursement for those services. He reported that expenditures in 2001-02 exceeded revenues. "Transfers In and Transfers Out" was used to balance the budget. Mr. Krueger stated that his goal was to have enough money in reserve that the City could weather temporary downturns in the future. Core level programs will need to be identified and less important services may have to be reconsidered within the framework of the current economic situation. Approximately 80% of \$33,589,000 in the General Fund is for personnel and benefits. He explained that Exhibits B-1 to B-7 (filed) outline departmental programs, expenditure and revenue trends, and costs funded with General Fund revenue. Mr. Krueger concluded that the way to resolve the structural deficit is to deal with those programs that are funded with general revenues.

NOTE: Council Member Howard left the meeting at 10:50 p.m.

Council Member Hitchcock noted that the spreadsheet information only goes back four years. She had heard that the City's budget doubled in the past ten years and asked to be provided with budget information over a longer period of time.

Mr. Krueger emphasized the importance of recovering the cost of services transfer amount as much as possible. It appears that the cost allocation plan has not kept up with actual trends and expenditures. There may be areas in the cost allocation plan that need to be reduced as well, such as Information Systems, which is recovering more than what it costs to provide services. Fees also need to be reviewed to ensure they are as up to date as possible. In Parks and Recreation and the Community Center, Mr. Krueger recommended that fees be increased where program costs exceed revenues.

Council Member Hitchcock noted that it is taking an extended amount of time to get projects through the plan check process in the Community Development Department, due to vacancies. She felt that there should be some expectation that fees are equivalent to a certain level of service. She suggested that vacant positions be considered on a case by case basis and a policy call made on priorities, rather than allowing attrition to occur randomly.

Mr. Krueger reported that total expenditures for 2004-05 is \$34,490,000. Direct revenue for all departments in the General Fund is \$4.5 million. The City is recovering just under \$6 million from utility departments and transportation funds and is funding \$24 million from general revenues. He outlined the following scenarios to reduce expenditures, from which he recommended "B":

- A. Apply the \$1.3 million deficit across the board to all departments, which would result in a 3.9% reduction in expenditures.
- B. Spread the \$1.3 million expenditure reduction to all departments based on their share of that net cost, which would result in a 5.62% reduction.
- C. Have no reductions to public safety and increase budget cuts to all remaining departments.
- D. Apply only half the reduction to public safety and spread the remaining amount to all other departments.
- E. In this scenario the \$1.3 million target becomes \$1 million after taking revenues into account that would be generated as a result of program expenditures.

Mayor Hansen stated that, when possible, he wanted the City to increase revenues within the parameters that it has to operate. He acknowledged that expenses would also have to be cut. He indicated that budget cuts should be done across the board in an equitable manner. He posed the question to Council as to how committed it was to get the City into a sound fiscal reserve. Policies, procedures, and philosophies need to be reconsidered so that the City can weather most situations it is confronted with in years to come. He suggested that becoming a Charter City might be beneficial in regard to maintaining a policy for fund balance reserve.

Council Member Hitchcock voiced support for the Charter City concept if it were primarily for financial constraints.

Mr. Krueger reported that he attended an economic forecast meeting recently, at which it was mentioned that the largest risk is associated with gasoline prices. He warned that if prices escalated drastically it would impact the City's sales tax revenues because there would be fewer large vehicles sold.

Mr. Krueger commented that ideas for reductions include having employees pay their own share of Public Employees' Retirement System costs and capping the health insurance benefits. He believed that the City was nearing the end of the duration of having the hiring freeze be a viable option for continued use. He stated that priorities for each department would be established and staff would return to Council with policy recommendations. He hoped to have the 2005-06 budget prepared by April or May. He suggested that a budget advisory committee be appointed to get input from community leaders.

Ms. Keeter noted that staff would not be recommending that the Economic Development Coordinator position be reinstituted. A "team Lodi" concept is being developed, which Ms. Keeter stated Council would be informed of at a later date.

PUBLIC COMMENTS:

- Judy Steinke of American Federation of State, County, and Municipal Employees, who represented Lodi General Services and Maintenance & Operators employees, offered assistance in regard to the upcoming budget process. She expressed hope that cuts would be shared equitably amongst departments and that Council would consider raising revenue as well.

Council Member Hitchcock concurred that budget cuts should be done in an equitable manner across all departments. In regard to raising revenue, she doubted that any Council Members would be in favor of placing a sales tax increase measure on a future ballot.

MOTION / VOTE:

There was no Council action taken on this matter.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Land thanked Bob Johnson, Steve Jarrett, JoAnne Mounce, Stephen Mackey, and Dixon Flynn for their hard work during the recent City Council campaign. He congratulated Bob Johnson and JoAnne Mounce.
- Mayor Hansen and Council Member Hitchcock also congratulated Council Members Elect Johnson and Mounce.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- Interim City Manager Keeter commented that she would send communication out tomorrow to Council Members Elect with a list of topics on which to begin briefing them. She announced that Veterans Day observance would occur on November 11.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:52 p.m.

ATTEST:

Susan J. Blackston  
City Clerk